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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,648	07/23/2002	Jean Kaufmann	FE-19PCT	9225
7590	07/25/2006		EXAMINER	
Friedrich Kueffner 317 Madison Avenue Suite 910 New York, NY 10017			NGUYEN, SONT	
			ART UNIT	PAPER NUMBER
				3643

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/070,648	KAUFMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Son T. Nguyen	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 02 February 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1 and 7-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1 and 7-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 May 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 & 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Crane (28563).**

For claim 1, Crane teaches a snaffle bit for horses comprising a mouthpiece consisting of at most two side parts (C, one on the left side and the other on the right side), which can be placed between the upper and lower jaws and extend crosswise through the mouth, the mouthpiece has a through opening (where rings D fit therethrough at the ends of the parts C) at each of its two ends projecting out from the sides of the mouth, each opening carrying a ring (D), wherein the mouthpiece has the shape of an outward-curved bow (see fig. 2 near ref. a) extending across the tongue and lower jaw and, wherein the bow shape of the mouthpiece is located on a plane extending substantially perpendicular to the through-openings, wherein the side parts are connected by a joint (a) that can only pivot around an axis substantially perpendicular to the plane, the joint being located substantially in the center of the mouthpiece (see fig. 2, pivot axis as shown in phantom, which is perpendicular to the plane of the bow).

For claim 7, Crane teaches wherein a pin (c) passes through the ends of the side parts, which form the joint, the pin being held in place in the end of the one of the two side parts which forms the joint fork.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 8,9,11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Crane (as above) in view of Conrad (4587797).

For claim 8, Crane teaches what appeared to be a circular cross section mouthpiece. However, this is uncertain. Conrad teaches a horse bit comprising a circular or elliptical cross section (see drawings). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a circular or elliptical cross section as taught by Conrad for the mouthpiece of Crane for such cross section is notoriously well known in the art of horse bits because the cross section provide a smoother surface for the horse to bite on.

For claims 9 & 11, Crane teaches cast iron (line 71) but not steel. In addition to the above, Conrad teaches the mouthpiece being made out of steel (col. 3, lines 34-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the mouthpiece of Crane out of steel as taught by Conrad, since it has been held to be within the general skill of a worker in the art to

select a known material on the basis of its suitability for the intended use as a matter of obvious choice. *In re Leshin*, 125 USPQ 416.

5. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crane (as above) in view of Simington (4005564).**

Crane is silent about pivot bearing sockets. Simington teaches a mouthpiece including pivot bearing sockets (the extension at the end of the mouthpiece) projecting out from at least one side of the through-openings and which represent extensions of these openings, are provided on the free ends of the mouthpiece, perpendicular to or at an angle of < 90° to the plane formed by the bow shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ pivot bearing sockets as taught by Simington at ends of the mouthpiece of Crane in order to provide for movement.

#### ***Response to Arguments***

6. Applicant's arguments filed 2/2/06 have been fully considered but they are not persuasive.

**Applicant argued that Crane discloses a bridle bit in which the mouth piece C, C does not press on the tongue of the horse when the reins are loose, but instead is pushed upwardly by a spring E against a rigid bar A that passes through the mouth. The presence of the rigid bar A prevents the bit from conforming to the mouth of the horse.**

Applicant fails to claim that the mouthpiece directly presses on the tongue so whether Crane teaches this limitation or not is irrelevant because it is not being claimed.

In addition, bar A is not considered by the Examiner as a mouthpiece because only ref. C,C is the mouthpiece.

**Applicant argued that in the rejection the Examiner seems to ignore the "consisting" language used in connection with defining the mouthpiece. In the present invention the mouthpiece consists of at most two side parts, which can be placed between the upper and lower jaws and extend crosswise through the mouth. In Crane the mouthpiece has more than the two parts C, C mentioned by the Examiner, there is also the bar A. Crane thus does not disclose a bit having a mouthpiece consisting of two pieces, as in the presently claimed invention.**

Again, Applicant claim language does not reflect the argument because Applicant did not claim at most two pieces; instead, the claim states "consisting of at most two side parts". Two side parts can be considered left and right sides, therefore, Crane teaches a left side part C and a right side part C. In addition, if Applicant argued that Applicant's mouthpiece consisting of at most two pieces, then this contradicts Applicant's own invention because Applicant's mouthpiece includes more than two pieces. For example, the mouthpiece includes left part/piece 5 and right part/piece 6 and joint 4 having joint fork 11 and connecting element 12. Hence, the mouthpiece of Applicant is definitely not consisting of only or at most two pieces as argued.

**Applicant argued that the mouthpiece of Crane is provided for the purpose of inflicting pain on the horse.**

Applicant's mere allegation of such infliction of pain is without merit and evidence. Even if so, in an apparatus claim, one looks for the structural element making up the apparatus and not whether it inflicts pain or not.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn